

## Commodity Credit Corporation, USDA

## § 1439.901

are subject to approval by the county committee.

(e) The FSA county committee may use any available documentation to make the determinations under paragraphs (b) and (c) of this section, including but not limited to: maps, acreage reports, slides, precipitation data, water table levels and disaster reports.

### § 1439.507 Producer eligibility.

(a) Payments under this subpart shall be subject to the provisions of § 1439.1 through § 1439.12, except as otherwise provided in this subpart.

(b) No person (as defined and determined under 7 CFR part 1400) may receive more than \$40,000 under this subpart.

(c) No person (as defined and determined under 7 CFR part 1400) will be eligible for payment under this subpart if that person's annual gross receipts for calendar year 1999 were in excess of \$2.5 million. That determination shall be made in the manner provided for in § 1439.11.

(d) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of 7 CFR 1400.501 and 1400.502.

### § 1439.508 Calculation of assistance.

(a) The unadjusted value of FCP assistance determined with respect to the flooded land in an eligible county for each producer shall not exceed the amount obtained by adding the amounts in paragraphs (b) and (c) of this section.

(b) For each eligible producer with respect to the applicable qualifying cropland which is determined, consistent with this subpart, to be eligible land for the payment purposes, the established local payment rate for cropland will be multiplied by the number of acres determined to be qualifying acres, as determined by the County Committee in accordance with instructions of the Deputy Administrator.

(c) For each eligible producer with respect to the applicable qualifying non-cropland acres consistent with this subpart, as determined by the county

committee in accordance with instructions of the Deputy Administrator, the acres will be multiplied by the established payment rate for non-cropland acres.

(d) Payments will be adjusted as determined necessary to comply with other provisions of this subpart such as those set in § 1439.509.

### § 1439.509 Availability of funds.

In the event that the total amount of claims submitted under this subpart exceeds the \$24 million authorized for FCP by Public Law 106-224, each payment to a producer shall be reduced by a uniform national percentage. Such payment reductions shall be after the imposition of applicable payment limitation provisions.

## Subpart I—American Indian Livestock Feed Program

SOURCE: 70 FR 29922, May 25, 2005, unless otherwise noted.

### § 1439.900 [Reserved]

### § 1439.901 Applicability.

This subpart sets forth, subject to the availability of funds, the terms and conditions of a government-to-government program titled the American Indian Livestock Feed Program (AILFP). Assistance will be available in those regions that Commodity Credit Corporation (CCC) determines have been affected by natural disaster and are located in a primary county or counties that have received a Presidential declaration or Secretarial emergency designation issued on or after January 1, 2003, for eligible losses in 2003 or 2004. Eligible producers may receive benefits for 2003 losses, or 2004 losses, but not both. Eligible areas will only include those where a determination is made by the Deputy Administrator for Farm Programs, Farm Service Agency (FSA) (Deputy Administrator) that a livestock feed emergency exists on tribal-governed land. Contiguous counties that were not designated as a primary disaster county in their own right will not be eligible for participation for 2003

or 2004 losses under this subpart. Payments may become available as contracts with tribal governments are approved. Unless otherwise specified or determined by the Deputy Administrator, a livestock producer is not eligible to receive payments for the same loss under both this subpart and another Federal program. Payments will terminate when the specified deadline has been reached, when a tribal government requests termination, or when there is a program violation or a violation of a contract related to the program irrespective of whether the violation involves the current operation of the program for other periods of time.

**§ 1439.902 Administration.**

(a) This subpart will be administered by CCC under the general supervision of the Deputy Administrator for Farm Programs. This program shall be carried out in the field as prescribed in these regulations and as directed in the contract executed between the applicable tribal government and CCC, except that in the event any contract provision conflicts with these regulations, the regulations shall apply.

(b) Tribal governments, their representatives, and employees do not have authority to modify or waive any provisions of the regulations of this subpart.

(c) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any provisions of regulations of this subpart.

(d) The Deputy Administrator may authorize State and county committees to waive or modify deadlines and other program requirements in cases where the applicant or tribe, as applicable, shows that circumstances beyond the applicant's or tribe's control precluded compliance with the deadline and where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

(e) The tribal government will, in accordance with this part and in coordination with the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), and FSA State and county committees, recommend the geographical size and shape of the region which will

be considered to be eligible to be considered the region where the natural disaster has occurred and where all eligibility conditions are met. Such region must consist solely of tribal-governed land and be located in a primary county or counties named in a Presidential declaration or Secretarial emergency designation. Regional eligibilities will be effective only upon the Deputy Administrator's approval in writing and continued approval thereafter.

(f) The Deputy Administrator will determine all prices with respect to implementing the AILFP.

(g) Subject to review by the Deputy Administrator, the FSA State committee will determine crop yields and livestock carrying capacity with respect to implementing the AILFP.

(h) Participation in the AILFP by a tribal government for either the tribal government's benefits or for the benefit of any eligible owner is voluntary and is with the understanding that CCC will not reimburse the tribal government or its members for any administrative costs associated with the administration or implementation of the program.

(i) Except as otherwise declared by the Deputy Administrator, Subpart A shall not apply to this subpart, except §§ 1439.3 through 1439.10, and 1439.12.

(j) No delegation herein to a State or county committee or a commodity office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee or employee of the Department of Agriculture.

**§ 1439.903 Definitions.**

The definitions set forth in this section shall be applicable to the program authorized by this subpart. The terms defined in § 1439.3 shall also be applicable except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

*Approving official* means a representative of the tribal government who is authorized to approve an application